FILED
CLERK
2004 AUG 27 P 4:05

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

In the matter of the arbitration between:

OHIO INDEMNITY COMPANY
250 East Broad Street, 10th Floor
Columbus, Ohio 43215,

Petitioner,

and

AEGIS SECURITY INSURANCE COMPANY
2407 Park Drive, Suite 200
Harrisburg, Pennsylvania 17105

and

250 East Park Drive
Swatara Township, Pennsylvania 17111

Respondent.

Civil Action No. 2:04 cv 830

JUDGE HOLSCHUH

MAGISTRATE JUDGE ABEL

APPLICATION BY PETITIONER
OHIO INDEMNITY COMPANY TO COMPEL ARBITRATION

Petitioner, Ohio Indemnity Company ("Petitioner"), alleges as follows:

1. Petitioner now is, and at all times herein mentioned was, an insurance company duly organized and existing under the laws of the State of Ohio, with its principal place of business in the City of Columbus. Petitioner is a specialty insurance and reinsurance company whose lines of business include financial products.

2. Respondent Aegis Security Insurance Company now is, and at all times herein mentioned was, a corporation duly organized and existing under the laws of the State of Pennsylvania, with its principal place of business in and about the City of Harrisburg. Aegis is an insurance company that reinsured a book of business with Petitioner.

3. The jurisdiction of the Court is invoked under 9 U.S.C. section 4 and under 28 U.S.C. section 1332. The matter in controversy exclusive of interest and costs exceeds the sum of $75,000.

4. Venue is proper in this judicial district and division. A substantial part of the events and omissions giving rise to the claims occurred or were required to be performed in Franklin County. Respondent is subject to personal jurisdiction in the Southern District of Ohio. Petitioner has its principal place of business in Franklin County, Ohio.

5. On or about January 1, 2001, Petitioner commenced its participation in a surety bond program, pursuant to which bonds were produced by Capital Bonding Corporation, underwritten by certain insurance companies and then reinsured with certain reinsurance companies, all of which was coordinated by certain reinsurance intermediaries (collectively, the "CBC Program"). Aegis was one of the insurance companies that issued bonds, and Petitioner was one of the reinsurance companies, under the CBC Program. Aegis and Petitioner entered into certain Bond Quota Share Reinsurance Agreements which, in part, set forth their insurer/reinsurer relationship (each, a "Reinsurance Agreement"). A copy of one of the Reinsurance Agreements is attached hereto as Exhibit A and is incorporated herein by this reference.

6. Each Reinsurance Agreement contains an arbitration provision. In part, the arbitration provision provides that "any dispute arising out of the interpretation, performance or breach of this Agreement, including the formation or validity thereof, shall be submitted for a decision to a panel of three arbitrators. Notice requesting arbitration will be in writing and sent certified or by registered mail, return receipt requested."

7. Disputes that come within the terms of the arbitration provision have arisen under the Reinsurance Agreements. The disputes involve, among other things, whether Aegis (in its capacity as one of the insurers under the CBC Program) and the reinsurance intermediaries breached their fiduciary duties and responsibilities to the reinsurers (including Petitioner) by failing to operate the CBC Program in accordance with its terms.

8. On August 23, 2004, Petitioner wrote to Aegis stating that it is requesting and instituting arbitration against it (and others) under the Reinsurance Agreements. A copy of the August 23, 2004 letter is attached hereto, marked Exhibit B, and made a part hereof.

9. On August 25, 2004, Aegis responded to Petitioner's demand for arbitration, essentially stating that it would not participate in the arbitration demanded by Petitioner, but rather insisting that Petitioner had to participate in an arbitration that it had instituted in June 2004 against a difference reinsurance entity, known as "Lloyd's Syndicate 1245." Petitioner had never been named as a respondent in that arbitration. A copy of Aegis' August 25, 2004 letter (with attachments) is attached hereto, marked Exhibit C, and made a part hereof.

10. The disputes that exist between Petitioner and Aegis under the Reinsurance Agreements must be resolved by arbitration. Petitioner demanded arbitration on August 23, 2004. Respondent has indicated that it will not participate in that arbitration.

11. The making of the arbitration agreement as part of the Reinsurance Agreement is not in issue.

12. No previous application or motion has been made requesting the relief sought herein.

WHEREFORE, Petitioner requests that this Court issue an Order, pursuant to 9 U.S.C. section 4, directing Aegis to arbitrate the issues between the parties pursuant to the arbitration demand made by Petitioner in its August 23, 2004 letter to Aegis.

Respectfully submitted,

Dated: August 27, 2004.

Aaron Rosenfeld (0005914)
Trial Attorney
William D. Kloss, Jr. (0040854)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43215
(614) 464-6482
(614) 464-6350 Fax
aprosenfeld@vssp.com

Attorneys for Petitioner